

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MCDAVID O. OYEKWE, §
§
Plaintiff, §
§
v. § Civil Action No. **3:21-CV-1075-L-BT**
§
FEDERAL EXPRESS CORPORATION, §
§
Defendant. §

ORDER

On January 13, 2022, the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 42) was entered, recommending that the court grant Defendant’s Motion to Dismiss (Doc. 21) and, pursuant to Federal Rule of Civil Procedure 12(b)(6), dismiss with prejudice Plaintiff’s claims for defamation and alleged violations of the Family Medical Leave Act (“FMLA”) and False Claims Act (“FCA”) for failure to state a claim for relief for which relief can be granted. The magistrate judge further recommended that the court not allow Plaintiff to further amend his pleadings as to these claims because he previously amended his pleadings without leave of court or Defendant’s consent, and he has not explained how he would cure the deficiencies identified by Defendant if allowed to amend his pleadings. Plaintiff did not file objections to the Report, and his deadline to do so expired on January 27, 2022.

Having considered Defendant’s Motion to Dismiss, the parties’ briefs, Plaintiff’s pleadings, the file, record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **grants** Defendant’s Motion to Dismiss (Doc. 21) and, pursuant to Rule 12(b)(6), **dismisses with prejudice** Plaintiff’s FMLA, FCA, and defamation claims.

Further, for the reasons stated by the magistrate judge, the court agrees that Plaintiff should not be allowed to further amend these dismissed claims. While Plaintiff is proceeding pro se, the court explained in its last order that this does not relieve him from complying with the Local Rules, the Federal Rules of Civil Procedure, or the orders entered in this case, and that his continued failure to comply with such rules could result in dismissal of this action pursuant to Federal Rule of Civil Procedure 41(b). The court also notes that Plaintiff did not request to amend his pleadings in response to Defendant's motion or the Report. The court, therefore, concludes that Plaintiff has pleaded his best case as to these claims. As a result of this ruling, only Plaintiff's claims for racial discrimination and retaliation under Texas and federal law remain.

It is so ordered this 31st day of January, 2022.



Sam A. Lindsay
United States District Judge